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ILLINOIS REFRIGERATED WAREHOUSES ACT

With Regulations

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Division of Animal Industries

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ILLINOIS REFRIGERATED WAREHOUSES ACT
(Illinois Revised Statutes, ch. 56 1/2, par. 79.1 et seq.)

AN ACT to regulate refrigerated warehouses in the handling and storage of certain articles of food, and to repeal an Act therein named. Laws 1955, p. 222, approved May 25, 1955, eff. July 1, 1955.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

79.1. Definitions

§ 1. For the purpose of this Act:

(a) "Artificially cooled refrigeration" hereinafter referred to as "refrigeration" means the storage or keeping of articles of food at or below a temperature of 45 degrees Fahrenheit in an artificially cooled refrigerated warehouse.

(b) "Artificially cooled warehouse" hereinafter referred to as "Refrigerated warehouse" means any place artificially or mechanically cooled to or below a temperature of 45 degrees Fahrenheit in which articles of food are placed and held for 30 days or more before distribution to wholesalers, retailers or jobbers, other than a locker plant or branch locker plant as defined in "An Act in relation to meat and poultry inspection and making an appropriation therefor", approved July 22, 1959, as now or hereafter amended.¹

(c) "Article of food" means any article used for food or drink or condiment by man, or other animals, whether simple, mixed or compound, or any article used or intended for use as an ingredient in the composition or preparation thereof, except unprocessed fruits or vegetables.

(d) An article of food shall be deemed to be "received in refrigeration" when it is delivered to and comes into the possession or custody of the licensee of a refrigerated warehouse.

(e) "Department" means the Department of Agriculture of the State of Illinois.

(f) "Director" means the Director of the Department.

Amended by P.A. 86-231, § 5, eff. Aug 15, 1989.

¹ Paragraph 301 et seq. of this chapter.

79.2. Licenses—Application—Examination—Issuance

§ 2. No person, firm or corporation shall maintain or operate a refrigerated warehouse without a license to do so issued by the Department. Any person, firm or corporation desiring such a license shall make written application to the Department for that purpose, stating the location of the refrigerated warehouse. The Director or his agents thereupon shall make an examination of the refrigerated warehouse and, if it is in a proper sanitary condition and otherwise properly equipped for its intended use, he shall issue a license authorizing the applicant to operate it as a refrigerated warehouse for one year. The license shall be issued upon payment by the applicant of a license fee of \$50 per annum to the Department.

Any license issued under the provisions of the Act herein repealed¹ that is valid immediately prior to the time this Act takes effect shall be considered as a license issued under the provisions of this Act and shall continue in effect until its expiration date unless sooner revoked under the provisions of this Act.

Amended by P.A. 77-510, § 1, eff. July 28, 1971.

¹ Paragraph 80 et seq. (repealed) of this chapter.

79.3. Revocation of license

§ 3. In case any refrigerated warehouse, or any part thereof, is at any time deemed by the Department, to be in an unsanitary condition, or not properly equipped for its intended use, the Department shall notify the licensee of such condition and upon the failure of the licensee to put such

refrigerated warehouse in a sanitary condition or to properly equip the same for its intended use, within a time to be designated by the Director, the license shall be revoked.

79.4 § 4. Repealed by P.A. 78-262, § 1, eff. Oct. 1, 1973.

79.5. Inspection and supervision

§ 5. The Department shall inspect and supervise all refrigerated warehouses and make such inspection of articles of food therein as it deems necessary to secure the proper enforcement of this Act, and shall have access to all refrigerated warehouses at all reasonable times. The Director shall appoint such persons as he deems qualified to make any inspection under this act.

79.6. Articles unfit for human consumption

§ 6. No article of food intended for human consumption shall knowingly be placed, received or kept in any refrigerated warehouse, if such article is unfit for human consumption, or may not reasonably be expected to keep wholesome for human consumption, unless said article is previously marked, in accordance with regulations to be prescribed by the Department, in such a way as to indicate plainly the date when such article was received in refrigeration, and the fact that such article is not to be sold or used for human consumption.

79.7. Lot numbers—Dates—Records

§ 7. Whenever articles of food are received in a refrigerated warehouse, each lot of such articles shall be identified and stamped with a distinguishing lot number under which they shall be kept in refrigeration and which distinguishes them from each and all articles then in refrigeration or delivered later for refrigeration and such lot numbers and the dates of receipt into and delivery from refrigeration shall appear on their records, warehouse or other receipt, or any other memoranda in writing relating to such articles.

79.8. Length of storage period

§ 8. No person, firm or corporation shall hereafter keep or permit to remain in any refrigerated warehouse any article of food which has been held in a refrigerated warehouse within the State for a longer aggregate period than 24 months except with the written approval of the Director.

79.9. Representing or advertising food as fresh

§ 9. It is unlawful to represent or advertise as fresh any article of food which has been in refrigeration for a period of 30 days or more.

79.10. Transfer of food to another warehouse

§ 10. It is unlawful to transfer any article of food from one refrigerated warehouse to another within the State of Illinois if such transfer is made for the purpose of avoiding the provisions of Section 8 of this Act.¹

¹ Paragraph 79.8 of this chapter.

79.11. Rules and regulations

§ 11. The Department shall make and enforce reasonable rules and regulations necessary to carry out the provisions of this Act. Such rules and regulations shall be kept in the Director's office, and shall be filed and shall take effect as provided in "The Illinois Administrative Procedure Act", approved August 22, 1975 as amended.¹

Amended by P.A. 83-333, § 36, eff. Sept. 14, 1983.

¹ Chapter 127, ¶ 1001 et seq.

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79.12. Review under Administrative Review Law

§ 12. The provisions of the Administrative Review Law, and all amendments and modifications thereof,¹ and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Department hereunder. The term "Administrative Decision" is defined as in Section 3-101 of the Code of Civil Procedure.²

Amended by P.A. 82-783, Art. XI, § 102, eff. July 13, 1982.

¹ Chapter 110, ¶ 3-101 et seq.

² Chapter 110, ¶ 3-101.

79.13. Violation of provision of Act

§ 13. Any person, firm or corporation violating any provision of this Act shall be guilty of a business offense, and upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000 for each offense.

Amended by P.A. 81-193, § 1, eff. Jan. 1, 1980.

79.13a. Short title

§ 13a. This Act shall be known and may be cited as the "Illinois Refrigerated Warehouses Act".

Added by P.A. 81-193, § 1, eff. Jan. 1, 1980.

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER E: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: WAREHOUSE REGULATIONS

PART 515
REFRIGERATED WAREHOUSES ACT

Section

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AUTHORITY: Implementing and authorized by the "Illinois Refrigerated Warehouses Act" (Ill. Rev. Stat. 1981, ch. 56 ½, par. 79.1 et seq.); authorized and implementing the "Meat and Poultry Inspection Act" (Ill. Rev. Stat. 1981, ch. 56 ½, par. 301 et seq.).

SOURCE: Rules and Regulations Relating To Refrigerated Warehouses, filed April 27, 1970, effective May 7, 1970; filed February 9, 1972, effective February 19, 1972; filed August 1, 1974, effective August 12, 1974; codified at 5 Ill. Reg. 10559; amended at 7 Ill. Reg. 1770, effective February 2, 1983.

Section 515.5 Definitions

- a) As used in these rules the following terms shall have the meanings specified:

"Act" means the Illinois Refrigerated Warehouse Act (Ill. Rev. Stat. 1981, ch. 56 ½, par. 79.1 et seq.).

"Sanitary Inspection Act" means "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1981, ch. 56 ½, par. 67 et seq.).

- b) Words in the singular form shall be deemed to include the plural, words in the masculine form shall be deemed to include the feminine form, and vice versa, as the case may require.

(Source: Added at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.10 Enforcement

The Director and his subordinates shall be charged with enforcement of said Act and shall exercise the authority therein conferred.

Section 515.20 Who is Required to be Licensed

Where a person, firm, or corporation operates more than one refrigerated warehouse, a separate license is required for each separate plant or warehouse.

Section 515.30 Articles of Food Covered by the Act

The provisions of the Refrigerated Warehouses Act apply to all articles of food as defined in Section 1, Paragraph (c) of the Act, when held at a temperature of 45 degrees Fahrenheit or below for 30 days or more before distribution to wholesalers, retailers, or jobbers.

Section 515.40 Application for License

The application for license to operate a refrigerated warehouse shall be made to the Department upon blanks furnished by the Department and shall be accompanied by the license fee of fifty dollars (\$50.00).

(Source: Rules and Regulations Relating to Refrigerated Warehouses, filed Feb. 9, 1972, effective Feb. 19, 1972)

Section 515.50 Renewal of License

Warehouses shall be licensed for a period of one year from the date of issuance of the license, and renewals shall be made upon each anniversary thereafter.

Section 515.60 Construction and Equipment Requirements

Refrigerated warehouses shall comply with provisions of the Sanitary Inspection Act (Ill. Rev. Stat. 1981, ch. 56 ½, pars. 67-76) as well as the Illinois Refrigerated Warehouses Act. Refrigerated warehouses shall be constructed and equipped with accurate and reliable controls as necessary for the freezing and holding in a frozen condition any food product accepted for storage. Upon examination of the warehouse, the Department inspector shall notify the licensee in writing of any condition which exists that could be detrimental to the freezing and holding of the food product or its use as human food or intended use without causing physical or health conflicts. The notice shall also state what must be done to remedy the condition and the time limit for doing so. In setting the time period for bringing the refrigerated warehouse into compliance, the Department shall consider the type of food product in storage, the length of time it has been in storage, its apparent condition, costs and time necessary to remedy the condition, and any facts or circumstances that could effect the wholesome condition of the food product. The Department's primary concern is to keep the food product in storage acceptable for human food or intended use. No license will be issued or the license will be revoked if the licensee fails or refuses

to bring the warehouse into compliance. This rule is subject to 8 Ill. Adm. Code 515.100.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.70 Revocation of License (Repealed)

(Source: Repealed at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.80 Identification of Containers

No article of food intended for other than human consumption shall be received or placed in storage unless the article or container is plainly and permanently marked with indelible, capital letters not less than one inch in height, "NOT FOR HUMAN CONSUMPTION." Where the character of the article or the container renders the placing of such a mark thereon impracticable, the mark shall be placed on a tag attached to the article, container, or bulk mass when placed in storage.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.90 Lot Numbers

All articles of food when received by a refrigerated warehouse shall be identified and stamped with a lot number before it is placed in storage. Such lot number shall appear on the warehouse record showing the name and address of the owner, person, or firm responsible for placing the foods in storage, together with the true name of the article, the amount stored and the date of receipt into and delivery from refrigeration, with record of any transfers of account or other memoranda relating to such lots. The removal or erasure of any mark, stamp, or tag required by the Act or the transfer of the food from one container to another for the purpose of evading any of the provisions of the Act will be deemed a violation thereof (see 8 Ill. Adm. Code 515.100).

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.100 Violation

If licensee fails or refuses to comply with the provisions of the Act, the rules promulgated pursuant thereto (8 Ill. Adm. Code 515), or any notification issued by the Department, the licensee shall be notified personally or by certified or registered mail to attend an administrative hearing (see 8 Ill. Adm. Code 515.150) for the purpose of determining whether the warehouse license should be revoked and the case submitted for prosecution in accordance with Section 13 of the Act. A license shall be revoked in accordance with Section 3 of the Act.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.110 Extension of Storage Period

In accordance with Section 8 of the Act, applications for permits to retain articles of food in storage beyond the 24-month period shall be received by the Department at least 30 days before expiration of the time that the food is to be removed from storage. Extension for further storage shall be granted if, upon examination, the articles of food are found to be in wholesome condition for further storage in accordance with the Meat and Poultry Inspection Act (Ill. Rev. Stat. 1981, ch. 56 ¹/₂, par.

301 et seq.) and the Meat and Poultry Inspection rules (8 Ill. Adm. Code: Chapter I, Subchapter c). If extension of the time period of storage is approved, the Department shall issue to the licensee a written order stating the extension of time allowable for the food products covered in such request for extension. In determining the extension period, the Department shall consider the type of food product in storage, its apparent condition, length of time it has been in storage and any facts or circumstances that could effect the wholesome condition of the food product for human consumption or its intended use. If the licensee is not satisfied with the decision on the extension, the licensee may request an administrative hearing (see 8 Ill. Adm. Code 515.150) to present his case. When requested by the Department for use at an administrative hearing or in order for the inspector to assure the wholesomeness of the food product in extended storage, the refrigerated warehouseman shall furnish a list of all foods in said warehouse which have been in storage 24 months, including the time such product was held in other Illinois warehouses and other states where the facts are known.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.120 Records and Inventory

All persons, firms, or corporations must keep records that will fully and correctly disclose all transactions involved in their business. The licensee will be required to sign a consent statement on the license application, which will permit authorized Department personnel entrance onto the premises for inspection, access to records and inventory, and to copy any records during reasonable business hours or at other times as deemed necessary by the Department to properly enforce the Act.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.130 Retention, Confiscation, and Destruction

Any authorized representative of the Department is empowered to retain in the warehouse or confiscate any product stored over 24 months and found to be in non-compliance with the Meat and Poultry Inspection Act (Ill. Rev. Stat. 1981, ch. 56 ½, par. 301 et seq.) and the rules promulgated pursuant thereto (8 Ill. Adm. Code: Chapter I, Subchapter c). The licensee will be notified personally or by certified or registered mail of an administrative hearing (see 8 Ill. Adm. Code 515.150) to determine the disposition of the product. If, upon examination by the proper authorities, such product is found to be unwholesome or if licensee fails or refuses to correct food products that are improperly labeled or improperly packed, the Department shall confiscate and cause such product to be destroyed or designated for use other than human consumption where the condition of the product will permit such use.

(Source: Amended at 7 Ill. Reg. 1770, effective February 2, 1983)

Section 515.140 Transportation and Transactions

No warehouseman shall transport, receive, or offer for transportation any product suspected of being unwholesome, improperly labeled, or improperly packed. All products received for storage shall be in compliance with the Illinois statutes.

(Source: Rules and Regulations Relating to Refrigerated Warehouses, filed August 1, 1974, effective August 12, 1974)

Section 515.150 Administrative Hearings

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1981, ch. 127, pars. 1001 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative hearings, petitions, proceedings, contested cases, declaratory rulings and availability of Department files for public access. Administrative hearings are govern by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules. The final administrative decision of the Department (see 8 Ill. Adm. Code 1.75(k) and 1.340) shall be subject to Section 12 of the Act.

(Source: Added at 7 Ill. Reg. 1770, effective February 2, 1983)

